

REMARKS

By this amendment, claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 are pending, in which claims 1-4, 6, 9-16, 18, 20, 24, 28, 44, and 62-64 have been previously canceled without prejudice or disclaimer, no claims are withdrawn from consideration, claims 22 and 42 are currently amended, and no claims are newly presented. No new matter is introduced.

The Office Action mailed August 31, 2009 rejected claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 as obvious under 35 U.S.C. § 103 based on either *Desai et al.* (US 6,820,204) in view of *Eftis et al.* (US 7,171,973) and *Aravamudan et al.* (US 6,301,609), or *Desai et al.* (US 6,820,204) in view of *Tornabene et al.* (US 2002/0023132).

The rejections of claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 as obvious under 35 U.S.C. § 103 are traversed.

Independent claims 22 and 42, as amended, recite, *inter alia*, “wherein said subscription is valid for a period of time in which one or more presence primitives including requested presence information of the requested user are **pushed** to said client of said requesting user.”

Not one of the references to *Desai et al.*, *Eftis et al.*, or *Aravamudan et al.*, or any combination thereof, discloses this feature. The Office Action referred to page 3, lines 42-46, of *Desai et al.* for the feature of ““wherein said subscription is valid for a period of time in which one or more presence primitives including requested presence information of the requested user are provided on an on-going basis to said client of said requesting user.” In response to Applicants’ argument that information in *Desai et al.* is “pulled” and not “pushed,” the Examiner asserts, at page 25 of the Office Action, that the claim language is silent with regard to whether the requested information is “pulled” or “pushed.”

Information being provided on “an on-going basis” means that the information is “pushed” to the client, i.e., the information need not be requested each time because it is “pushed,” or provided, to the client on an on-going basis. The recitation of “an on-going basis,” as employed in the claims, means that the information is “pushed” to the client of the requesting user. In any event, claims 22 and 42 have now been amended to recite “pushed” rather than “an on-going basis.” While the original disclosure did not use this term, there is adequate support in the original disclosure at various places for its inclusion in the claims. For example, when disclosing the particulars of a “Subscribed Presence” at the bottom of page 32 of the specification, with regard to Fig. 4A, it is stated that the “authorization may also be done **autonomously**...” Autonomously means done without further request, i.e., automatically, or “pushed.” At lines 28-30 of page 32, it is stated that “When the subscription to presence information is complete, the requesting user will receive 88 new presence information initially **and always** 90 when the other party updates its presence information,” i.e., The fact that the new presence information is **always** received suggests that the information is pulled to the client of the requesting user. Also, the description of “on-going responses” at lines 26-30 of page 6, and line 5 of page 7, is suggestive of a “push” operation in order to feed the presence information in an on-going manner. The specification has also now been amended to include the term “push” in the paragraph bridging pages 6-7 of the specification.

Page 3, lines 42-46, of *Desai et al.* cited for the feature of an “on-going basis” not only does not disclose this feature but clearly does not disclose any “push” function whereby “one or more presence primitives including requested presence information of the requested user are **pushed** to said client of said requesting user.” The cited portion of *Desai et al.* recites “...an information exchange system includes a storage system adapted to store profile data for a

plurality of users. The information exchange system is connected to one or more registered users through a communications network, such as the Internet...” Nothing therein is even suggestive of “one or more presence primitives including requested presence information of the requested user are **pushed** to said client of said requesting user.”

Accordingly, since at least this feature is not disclosed or suggested by any of the applied references, no *prima facie* case of obviousness has been established regarding the subject matter of claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 under 35 U.S.C. § 103 based on the combination of *Desai et al.* in view of *Eftis et al.* and *Aravamudan et al.*

With regard to the combination of *Desai et al.* and *Tornabene et al.*, the rejection of claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 under 35 U.S.C. § 103 based on these references is improper for at least two reasons.

First, the claims are allowable because, for the reasons above, *Desai et al.* fails to disclose “one or more presence primitives including requested presence information of the requested user are **pushed** to said client of said requesting user” and *Tornabene et al.* is of no help in providing for this deficiency.

Second, even if the combination of references taught the instant claimed subject matter, which it does not, *Tornabene et al.* is not a viable reference because the publication date of February 21, 2002 is **after** the effective filing date of the instant application, *viz.*, March 14, 2001. While *Tornabene et al.* relies on provisional application No. 60/189,973, having a filing date of March 17, 2000, *Tornabene et al.* cannot rely on the earlier date for certain disclosures

allegedly teaching or suggesting instant claim features. For example, the Office Action relies on paragraphs [0063] and [0084] of the *Tornabene et al.* provisional application for the features of “said presence attributes are classifiable in any or more of the following: client reachability, user availability, user personal status, user or client location” and “client capabilities,” respectively (See page 16 of the Office Action). However, as Applicants asserted at page 24 of the previous response, an assertion to which the Examiner has been non-responsive, paragraph [0063] of *Tornabene et al.* can only be partially traced back to page 13, lines 14-21 of the provisional application. Paragraph [0084] is absent from the provisional application. Therefore, paragraph [0084], upon which the Office Action relies, at least in part, for maintaining the instant rejection, is not available as prior art against the instant claims. In any event, paragraph [0084] does not disclose or suggest providing an information element comprising presence attributes indicating client capabilities.

The presence information of the instant claims is much more than merely an indication of whether a particular user is online or offline. Rather, the claimed subject matter, e.g., see independent claims 22 and 42, provides for a “presence **primitive**,” i.e., various attributes relating to the presence of a user or a client of the user. The presence attributes are classifiable in any one or more of the categories: client reachability, user availability, user personal status, user or client location, and client capabilities. The values of the presence attributes have associated space and time information usable by a receiving entity to modify the presence values or related presence values of the user in processing the presence primitive. These claim features are not disclosed or suggested by the applied references or combination thereof.

The Examiner’s response, at page 25 of the Office Action, does not address the fact that the *Tornabene et al.* provisional application filing date of March 17, 2000 is not applicable to

paragraph [0084] of the *Tornabene et al.* application publication (with filing date of February 21, 2002) because paragraph [0084] has no support in the provisional application.

Accordingly, since *Tornabene et al.* is not valid prior art and, even if it were valid prior art, it does not disclose the details of a presence primitive, as claimed, for the reasons above, the *Desai et al./Tornabene et al.*, combination fails to present a *prima facie* case of obviousness with regard to the instant claimed subject matter.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 5, 7, 8, 17, 19, 21-23, 25-27, 29-43, and 45-61 under 35 U.S.C. § 103 based on the combination of *Desai et al.* and *Tornabene et al.*

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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